

## GAO Reports Long Overdue Data on Mortgage Scams at Behest of Request Made by Reps. Matsui, Rush

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SACRAMENTO, CA — Today, Congresswoman Doris Matsui (D-CA) announced that the Government Accountability Office (GAO) released a report on the current situation of mortgage foreclosure scams occurring around the country, and an analysis of the government's efforts to prohibit such deceptive financial practices. In May 2009, Congresswoman Matsui and House Commerce, Trade, and Consumer Protection Subcommittee Chairman Bobby Rush (D-IL) sent a letter to GAO requesting a thorough report on these mortgage scams, which the California Department of Real Estate had described as the biggest consumer fraud it faced that year. The report documents that because of the dramatic increase in foreclosed homes across the country since 2005, opportunities for scam artists were in abundance. But such valuable information had been kept out of the public record — until now.

"I am pleased that the GAO has completed this long-overdue report that I requested, and have finally put necessary information out into the public domain," said Congresswoman Matsui. "It is imperative that we understand the nature of the size, scope, and type of mortgage scams so that we can help put in place necessary measures to stop them, and promote awareness for American homeowners about how to avoid them. In many instances, the report found that the same individuals that initially steered homeowners into subprime loans are the same bad actors who are offering false promises to struggling homeowners attempting to save their home. These unlawful and deceptive financial practices must stop. The GAO report sheds light on this serious problem occurring in Sacramento, and across the nation. I look forward to working with my colleagues on the Energy and Commerce Committee in reviewing this report and enacting legislation to address the loopholes that allow these scams to continue."

"Far too many of our vulnerable citizens have fallen prey to deceptive practices that have added undue financial burdens at a time when our economy is still struggling to put people back to work," said Chairman Rush. "I am pleased to learn of the GAO's release of its report which should assist consumers in their efforts to avoid those who engage in fraudulent lending practices. I urge the Obama Administration to remain vigilant in its efforts to protect current and prospective homeowners and to use its regulatory authority to help put a halt to these deceptive

practices.”;

In the Spring of 2009, Chairman Rush introduced H.R. 2309, the Consumer Credit and Debt Protection Act, which would help address many of these loopholes. Congresswoman Matsui, an original cosponsor of H.R. 2309, included a provision to the bill which would direct the Federal Trade Commission (FTC) to develop standards to prohibit mortgage foreclosure scams. Congresswoman Matsui’s provision also puts an end to so-called advance-fee loan modifications so homeowners do not pay an advanced fee, ranging from \$500 to more than \$5,000, for a loan modification service never rendered. Many Sacramento homeowners were tricked into paying an upfront fee for the false promise of modifying their mortgage loans, only to not receive a service. The Matsui provision would end that practice for good. This legislation is now before the Energy and Commerce Committee.

## Foreclosure Rescue Scams

The GAO report released this week found two principal types of foreclosure rescues and loan medication schemes perpetrated against consumers: the advance-fee loan modification schemes, as well as sales-leaseback schemes. The advance-fee scheme occurs when a person charges a fee in advance of renegotiating someone’s mortgage with a lender, and then provides little or no service. The sales-leaseback scheme involves someone convincing a homeowner at risk of foreclosure to transfer the deed of their home to them.

The GAO report also found two newer schemes that have been emerging. The first is a forensic mortgage loan audit scam, which the report explained as a “new twist on foreclosure rescue fraud.” In this scam, someone charges a fee to conduct an “audit” intended to find regulatory violations in the mortgage loan origination in order to allow the homeowner to use the “audit” results to avoid foreclosure, accelerate the loan modification process, reduce the loan principal, or even cancel the loan. The other is described as a variation of advance-fee scams in which a person promises to eliminate a homeowner’s mortgage or other debt on the premise that the debts were illegal or the government would assume responsibility.

## Other Aspects of the GAO Report

### Foreclosure Scam Victims:

The GAO report found that that potential victims are likely to include anyone desperate to save their home from foreclosure, regardless of their economic status or demographic characteristics. For example, the report found that persons engaging in these schemes will target anyone having difficulty in paying their mortgage loan, and even wealthy individuals or professionals may become victims of these schemes if they are unable to pay their mortgage. However, three of GAO case-studies state that they were specifically aware of schemes in which a particular ethnic or religious community was targeted.

### Difficulty in Enforcement:

The GAO report found that these schemes are difficult to combat because state law enforcement authorities are often unable to locate the persons who committed the schemes or provide restitution to the victims. Federal and state officials also said that loan modification schemes in particular are difficult to combat because companies can easily start up and shut down and can be run solely on the Internet. In addition, as explained by California and Florida officials, according to the report, persons engaging in the schemes often run large-scale operations across state lines, using methods similar to those of telemarketing schemes that allow them to solicit customers nationwide. In these operations, a California state official said, most of the employees work in sales, soliciting customers and obtaining payments, while performing no work

on behalf of the customers. Because these schemes are operated across state lines, several state officials told us, they are more difficult for state law enforcement to combat. Officials said that pursuing out-of-state companies adds increased difficulties in litigating and enforcing judgments for State Attorneys' General offices because they have no jurisdiction over companies being operated across state lines.

#### GAO Recommendations:

The GAO analysis suggests that several factors could be important to federal efforts in combating foreclosure rescue schemes, especially educating consumers about deceptive practices and effectively coordinating law enforcement efforts to combat these schemes. The Mortgage Fraud Working Group (made up of Treasury, FTC, AG, Fed, among others) has developed an action plan that addresses some of the factors in its planned activities. However, GAO, believes that the plan does not address certain key practices that can help enhance and sustain collaboration among federal agencies, such as a clear long-term strategy and results-oriented performance measures.

To develop a comprehensive strategy for the Mortgage Fraud Working Group's efforts to combat mortgage fraud, the GAO recommends that the U.S. Attorney General, as the head of the Working Group, do the following: (1) develop clear, long-term strategies and performance measures that the working group can use to evaluate its progress toward achieving its long-term goal of increasing enforcement in the area of mortgage fraud and (2) to the extent that the working group considers foreclosure rescue schemes to be a priority, develop strategies specific to these schemes, including those that enhance coordination of law enforcement agencies and that provide consumer education.

A copy of the report can be found by clicking [here](#) .

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